

## REMARKS

Claims 1-15 are pending. Claims 1-3, 6-8, 11, 14 and 15 are currently amended.

Claims 1-3, 8 and 15 are currently amended to limit the number of monomers used to synthesize the copolymers of the instant invention.

Claim 11 is currently amended to correct a typographical error.

Claims 1, 6 and 7 are currently amended to delete R7 from the proviso phrase.

Additionally, claim 1 is amended to limit the definition of R7 to hydrogen or methyl. This amendment finds support in paragraphs [0032]-[0034] of published application US 2005-0265948.

Claim 14 is currently amended to correct the definition of R9 and insert the proviso phrase. Support for this amendment is found in originally filed claim 6 of published application US 2005-0265948.

No new matter is added.

Claims 1-15 are presented for reconsideration.

### **Claim Rejection – 35 USC 112 Second Paragraph**

Claims 1, 7, 9, and 14 are rejected under 35 USC 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per a suggestion by the Examiner, claim 1 is currently amended to limit the type of polymer to the exact type disclosed in the specification. Accordingly, claim 1 is amended to insert the term “emulsion” before the word polymerization. Support for this amendment is based on the disclosure found in Instant Examples A and B and the method indicated therein.

The Applicants therefore aver that the 35 USC 112 second paragraph rejection is addressed and overcome.

## **Claim Rejections – 35 USC 102(b)**

Claims 1-11 and 13-15 are rejected under 35 USC 102(b) as being anticipated by Galleguillos et al. (US 6,361,768).

US 6,361,768 teaches a hydrophilic ampholytic polymer or copolymer formed by copolymerization of: a) 0.05 to 20 mole percent of at least one anionic monomer having at least one carboxy-functional group, b) 10 to 45 mole percent of at least one cationic monomer having at least one amino-functional group, c) a sufficient quantity (in an amount of about 35 to about 95 mole percent) of at least one non-ionic hydrophilic monomer to provide a glass transition temperature of above about 50.degree. C., d) 0 to 10 mole percent of a fourth hydrophobic monomer, and e) 0 to 1.5 mole percent of a cross-linking monomer (column 4, lines 35-49). According to this disclosure, at least three monomer components must present in the polymer or copolymer with a fourth component, component d, being optional. Instant claims 1, 2, 3, 8, and 15 are currently amended to delete the term "at least one". This amendment limits the claimed copolymer exclusively to those copolymers derived from monomers of formula (I) and (II).

Claims 1-3, 5-7, 10, and 13 are rejected under 35 USC 102(b) as being anticipated by Strasilla et al. (US 4,460,567).

US 4,460,567 teaches copolymers in personal care compositions based on the required monomeric components aminoalkyl(meth)acrylate in column 1, line 20 and (meth)acrylamides in column 1, line 25 and other optional components. In US 4,460,567, formula II is acrylamide or methacrylamide. Instant claims 1, 6, and 7 are currently amended to exclude R7 from the proviso phrase. This amendment establishes a clear line of demarcation between the instant invention and US 4,460,567.

Claims 1-2, 5-7, and 10-12 are rejected under 35 USC 102(b) as being anticipated by Mita et al. (US 5,278,269).

US 5,278,269 teaches a film-forming resin which is a copolymer comprising monomers: (a) 30 to 80% by weight of a (meth)acrylamide monomer represented by the following formula (I); (b) 5 to 45% by weight of a (meth)acrylate monomer represented by the following formula (II); (c) 2 to 30% by weight of a (meth)acrylate monomer and/or a (meth)acrylamide monomer having a tertiary amino group

represented by the following formula (III); and, (d) 0 to 30% by weight of a (meth)acrylate monomer represented by the following formula (IV). According to this disclosure, at least three monomer components must present in the polymer or copolymer with a fourth component, component d, being optional. Instant claims 1, 2, 3, 8, and 15 are currently amended to delete the term "at least one". This amendment limits the claimed copolymer exclusively to those copolymers derived from monomers of formula (I) and (II).

The Applicants therefore aver that the 35 USC 102(b) rejections are addressed and overcome.

### **Claim Rejections – 35 USC 103(a)**

Claims 1-15 are rejected under 35 USC 103(a) as being unpatentable over Strasilla et al. (4,460,567) in view of Galleguillos et al (US 6,361,768) and in view of Lentini et al. (US 5,665,368).

US 4,460,567 is deficient with regard to the monomer of instant formula (II) in Instant Claim 1. The corresponding amide component (2) is structurally different. The structural difference is explained by the proviso in Instant Claim 1. Additionally, the copolymers of US 4,460,567 are subsequently reacted with surfactants of formula 63 in column 9, line 63 and bridging column 10, line 10. Surfactants are present in the claimed compositions of the Instant Invention as optional additives; there is no subsequent reaction with surfactants. Additionally, as the Examiner correctly points out, there are no cross linking agents.

The combination of US 6,361,768 with US 4,460,567 would teach away from the instant invention. The limitations of amended claim 1 to compositions wherein copolymers formed from two monomers are present excludes terpolymers. The combination of these two references would teach terpolymers. The instant amendment defines copolymers from two monomers whereas the combination, if applied correctly, would lead one of ordinary skill in art to terpolymers, not to the copolymers of the instant invention.

Additional components, such as oil and propylene glycol, are disclosed in US 6,361,768 as well as in US 5,665,368. These components are known and optional. The description of these components is merely functional.

The elements of the instant amended claims can not be derived from US 6,361,768, US 5,665,368, and US 4,460,567, either alone or collectively; hence the limitations are not met.

The Applicants therefore aver that the 35 USC 103(a) rejections are addressed and overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

Respectfully submitted,

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Enclosure: One month extension of time